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Supreme Court, U.S.
FILED

No. 04-1597 MAY 20 2005

In The
Supreme Court of the United States

IN RE: DELBERT H. REIDT,

Petitioner.

On Petition For Writ Of Mandamus To The United States Court Of Appeals For The Ninth Circuit Re-Issue Of Order In No. C-92-80380 Of April 12, 2005, Circuit Judges Kozinski, Hawkins, And Clifton Presiding (No. CV-04-2512-C(DC WWS))

PETITION FOR WRIT OF MANDAMUS TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT RE-ISSUE OF ORDER IN NO. C-92-80380 OF APRIL 12, 2005, CIRCUIT JUDGES KOZINSKI, HAWKINS, AND CLIFTON PRESIDING (NO. CV-04-2512-C(DC WWS), NO. CS-03-260 FVS(DC ED WA), NO. CS-02-394-EFS(DC ED WA), NO. CS-0023-JLQ (DC ED WA), NO. CV-N-00-297(DC N NV), NO. CV-98-1725-C(DC WWS), NO. CV-97-276-Z(DC WWS), NO. CV-344-WLD(DC WWS), No. CV-94-20180-RMW(DC ND CA), NO. CV-89-20527-WAI(DC ND CA), NO. CV-89-20526-WAI(DC ND CA), NO. CV-89-2510-WAI (DC ND CA), NO. CV-84-20566-RPA(DC ND CA))

DELBERT H. REIDT, *Pro Se*
4800 Kietzke Lane Apt. 192
Reno, NV 89502
Tel. No. (775) 722-9781

QUESTIONS PRESENTED

I.

Where the 9th Circuit FAILED or REFUSED to reconsider whether finality in a judgment is controlled by Fed.R.Civ.P. 54(b), and does Judge Coughenour's Dismissal Order of March 4, 2005 in *Reidt v. United States*, comply in all respects with Fed.R.Civ.P. 54(b), does the burden now fall upon this Court to perform the above-cited task refused by the 9th Circuit? 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106, 28 U.S.C. § 1346(b), 28 U.S.C. §§ 2671-80, 28 U.S.C. § 1861, *Montana v. United States*, 440 U.S. 147, 153-154, 99 S.Ct. 970, 973-974, 59 L.Ed.2d 210, 212-213, 216, 217, 219 (1979), Aff'd in *Allen v. McCurry*, 449 U.S. 90, 94, 101 S.Ct. 411, 414-415, 66 L.Ed.2d 308, 310, 313-314 (1980).

II.

May mandamus issue as an aid in appellate jurisdiction as a complete remedy to enforce Petitioner's due process rights to fully and fairly adjudicate his claims under Fed.R.Civ.P. 54(b), piecemeal adjudication notwithstanding? 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106, 28 U.S.C. § 1346(b), 28 U.S.C. §§ 2671-80, 28 U.S.C. § 1861.

III.

Is piecemeal adjudication of fewer than all the parties' claims, rights and liabilities final? Fed.R.Civ.P. 54(b), 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106.

QUESTIONS PRESENTED – Continued

IV.

Does any of Judge Coughenour's Orders in No. CV-04-2512-C(DC WWS) (*Reidt v. United States*) fully and fairly adjudicate the rights, claims and liabilities of all the parties? Fed.R.Civ.P. 54(b), 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106, 28 U.S.C. § 1346(b), 28 U.S.C. §§ 2671-80, 28 U.S.C. § 1861.

V.

Does any of the Orders cited in *In re: Delbert H. Reidt, Respondent*, (9th Cir. 1992) include all the previous district court cases fully and fairly adjudicate the parties' claims, rights and liabilities? Fed.R.Civ.P. 54(b), 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106, 28 U.S.C. § 1346(b), 28 U.S.C. §§ 2671-80, 28 U.S.C. § 1861, *Montana v. United States*, 440 U.S. 147, 153-154, 99 S.Ct. 970, 973-975, 59 L.Ed.2d 210, 212-213, 216-217, 219 (1979).

VI.

Is Petitioner entitled under 28 U.S.C. § 1404(a) to transfer this case to Reno, NV district court as a convenience after this Court orders No. CV-04-2512-C(DC WWS) reinstated? 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106, 28 U.S.C. § 1346(b), 28 U.S.C. §§ 2671-80, 28 U.S.C. § 1861.

QUESTIONS PRESENTED – Continued

VII.

May mandamus issue as an aid in appellate jurisdiction as a complete remedy to below failure or refusal to try Petitioner's Proposed Special Verdict found in Appendix? Fed.R.Civ.P. 49(a), 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106, 28 U.S.C. § 1345(b), 28 U.S.C. §§ 2671-80, 28 U.S.C. 1861.

VIII.

Since this Court holds jurisdiction over the *Feres Doctrine*, this Court should settle the following question in order to preclude further action in this Court.

> Where petitioner alleges he was wrongfully terminated from the United States Coast Guard on July 7, 1952 without disability status and pay, does the United States or any of its agencies, departments or contractors (civilian) have any immunity from a damage claim for 53 years of pain and suffering, anxiety attacks, panic attacks, emotional stress, mental anguish and post-service, loss of wages due to inability to engage in gainful substantial employment opportunities? Fed.R.Civ.P. 8(a), 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106, *Feres v. United States*, 340 U.S. 135, 71 S.Ct. 153, 93 L.Ed. 152 (1950).

QUESTIONS PRESENTED – Continued

IX

Where the district courts interposed interlocutory dismissal after interlocutory dismissal inconsistent with Fed.R.Civ.P. 54(b) over a period of 20 (twenty) years, was such abuse of judicial discretion harassment of this Petitioner designed to extend the litigation and to increase the costs of litigation to cause delay and was such harassment the further cause of pain and suffering, severe emotional stress and mental anguish, aggravation of Petitioner's mental state, may Petitioner obtain a separate judgment from this Court in the amount of $500,000.00 (five hundred thousand) dollars exclusive of any trial court judgment, settlement, award, arbitration or compromise? Fed.R.Civ.P. 11, 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106, 28 U.S.C. § 2672.

X.

Did Petitioner cite claims for which money relief can be granted from *Reidt v. United States*, No. CV-94-20180-RMW(DC ND CA) through *Reidt v. United States*, No. CV-04-2512-C(DC WWS)? Fed.R.Civ.P. 8(a), 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106.

XI.

Can Petitioner Pro Se be excused for inadvertence or excusable neglect for not citing claims on which money relief can be granted in cases from *Reidt v. United States*, No. CV-84-20566-RPA(DC ND CA) through *Reidt v. San Francisco, CA. Regional Office of Dept. of Veterans' Affairs*, No. CV-89-20527-WAI(DC ND CA)? Fed.R.Civ.P. 8(a), Fed.R.Civ.P. 60(b)(6), 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106.

QUESTIONS PRESENTED – Continued

XII.

Does the Court still hold pro se litigants to less stringent standards in the drafted pleadings than in pleadings drafted by attorneys such as this case? S.Ct. Rule 39.3

LIST OF PARTIES TO THIS ACTION

Delbert H. Reidt – Petitioner
4800 Kietzke Lane, Apt. 192
Reno, NV 89502
Cell Phone (775) 722-9781

Ninth Circuit Judges – Respondents
Kozinski, Hawkins and Clifton
C/O Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
95 Mission St.
P.O. Box 193939
San Francisco, CA 94119-3939
No Tel. No.

District Judge John C. Coughenour – Respondent
U.S. District Court, Western Washington
U.S. Courthouse
C/O Office of the Clerk
Lobby Level, 700 Stewart St.
Seattle, WA 98101
Tel. No. Unknown

District Judge Fred Van Sickle – Respondent
U.S. District Court, Eastern Washington
U.S. Courthouse
C/O Office of the Clerk
Room 840, 920 West Riverside Ave.
Spokane, WA 99201
Tel. No. Unknown

District Judge Edward Shea, Jr. – Respondent
U.S. District Court, Eastern Washington
U.S. Courthouse
C/O Office of the Clerk
Room 840, 920 West Riverside Ave.
Spokane, WA 99201
Tel. No. Unknown

LIST OF PARTIES TO THIS ACTION – Continued

District Judge Justin L. Quackenbush – Respondent
U.S. District Court, Eastern Washington
U.S. Courthouse
C/O Office of the Clerk
Room 840, 920 West Riverside Ave.
Spokane, WA 99201
Tel. No. Unknown

District Judge Edward C. Reed, Jr. – Respondent
U.S. District Court, Northern Nevada
U.S. Courthouse
C/O Office of the Clerk
2nd Floor, 400 South Virginia St.
Reno, NV 89501
Tel. No. Unknown

District Judge Thomas Zilly – Respondent
U.S. District Court, Western Washington
U.S. Courthouse
C/O Office of the Clerk
Lobby Level, 700 Stewart St.
Seattle, WA 98101
Tel. No. Unknown

District Judge William L. Dwyer – Respondent
(no longer in office?)
U.S. District Court, Western Washington
U.S. Courthouse
C/O Office of the Clerk
Lobby Level, 700 Stewart St.
Seattle, WA 98101
Tel. No. Unknown

LIST OF PARTIES TO THIS ACTION – Continued

District Judge Ronald M. Whyte – Respondent
U.S. District Court, Northern California
U.S. Courthouse
C/O Office of the Clerk
2nd Floor
San Jose, CA 95113
Tel. No. Unknown

Chief Judge Marilyn Hall Patel – Respondent
Responding for William A. Ingram (deceased) and
Robert P. Aguilar either impeached or resigned
U.S. District Court, Northern California
U.S. Courthouse
C/O Office of the Clerk
450 Golden Gate Ave.
San Francisco, CA 94102
Tel. No. Unknown

Acting Chief Judge – U.S. Court of Federal
Claims – Respondent
Responding for Kenneth R. Harkins, no longer a judge
he made the interlocutory order in *Reidt v. United*
States, No. 490-85-C(Harkins)
Office of the Clerk
U.S. Court of Federal Claims
The National Courts Building, 717 Madison Place N.W.
Washington, D.C. 20005
No Tel. No.

Acting Chief Judge
U.S. Court of Appeals for the Federal Circuit
Office of the Clerk
The National Courts Bldg.
717 Madison Place N.W.
Washington, D.C. 20439
Tel. No. Unknown

LIST OF PARTIES TO THIS ACTION – Continued

Acting Solicitor General of the United States of America – Respondent
Room 5614, Department of Justice
950 Pennsylvania Ave. N.W.
Washington, D.C. 20530-0001
Tel. No. Unknown

Secretary, Department of Health and Human Services – Respondent
Office of the Secretary
Office of the General Counsel
Department of Health and Human Services
200 Independence Ave. S.W.
Washington, D.C. 20201

Secretary, Department of Veterans' Affairs – Respondent
Office of the Secretary
Office of the General Counsel
810 Vermont Ave. N.W.
Washington, D.C. 20420

Secretary, Department of Transportation – Respondent
Office of the Secretary
Office of the General Counsel
Department of Transportation
400 7th Street S.W.
Washington, D.C. 20590
No Tel. No.

Secretary, Department of Homeland Security – Respondent
Office of the Secretary
Office of the General Counsel
Department of Homeland Security
(No Street Address appears in the World Almanac)
Washington, D.C. 20528
No Tel. No.

LIST OF PARTIES TO THIS ACTION – Continued

United States Coast Guard, Commandant – Respondent
Office of the Commandant
Office of the General Counsel
2100 2nd Street S.W.
Washington, D.C. 20593
No Tel. No. Known

Chief Judge Robert L. Lasnik – Respondent
U.S. District Court, Western Washington
U.S. Courthouse
Office of the Clerk
Lobby Level, 700 Stewart St.
Seattle, WA 98101
Tel. No. Unknown

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I.

CITATION TO ORDERS, OPINIONS BELOW

On April 12, 2005, the Ninth Circuit re-issued a standing interlocutory Order in *In re: DELBERT H. REIDT*, Respondent No. C-92-80380 in which it was decided in 1992 that no matter how Respondent pled any appeal or mandamus will be denied. And no motion for reconsideration, rehearing, or any other submission will be entertained in this closed docket. *See* Appendix A.

Petitioner alleges the Ninth Circuit is attempting to compel this petitioner to accept as final to the entire case Judge Ingram's (deceased) interlocutory order at Appendix G.

On March 4, 2005 District Judge John C. Coughenour dismissed my complaint again with prejudice on mere pleadings allegations alone in No. CV-04-2512-C(DC WWS). *See* Appendix B.

On Feb. 8, 2005 Judge Coughenour in Appendix C Minute Order ordered Petitioner to show cause why his claims should not be dismissed as res judicata.

On Feb. 3, 2005 Chief Judge Robert L. Lasnik declined to recuse Judge Coughenour for probable prejudice against Petitioner and bias in favor of the United States, *See* Appendix D.

On Jan. 26, 2005 in Appendix E Judge Coughenour refused voluntary recusal for prejudice against Petitioner and bias for the United States.

In Appendix F the Clerk of the district court issued a Minute Order to Petitioner to return the signed WRITTEN

CONSENT FOR PAYMENT OF COSTS FROM ANY RECOVERY.

In Appendix G District Judge Ingram issued the interlocutory order which Petitioner alleges does not fully and fairly adjudicate all the parties, claims, rights and liabilities of all of the parties, Fed.R.Civ.P. 54(b).

Appendix H is PLAINTIFF'S PROPOSED SPECIAL VERDICT which is the main issue on mandamus to Order the district court to try the issues therein which Petitioner believes will bring this case to a satisfactory conclusion.

Appendix I is the signed WRITTEN CONSENT FOR PAYMENT OF COSTS FROM ANY RECOVERY UNDER LOCAL RULE CR 3(b).

II.

JURISDICTION SOUGHT IN THIS COURT

The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law. 28 U.S.C. § 1651(a).

The procedures for an extraordinary writ are found in the Court's Rule 20.

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment or decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree or order, or require such proceedings to be had as may be just under the circumstances. 28 U.S.C. § 2106.

III.

JURISDICTION SOUGHT IN THE NINTH CIRCUIT

28 U.S.C. § 1651(a), Ninth Circuit Rule 21-1-21-4, Fed.R.Civ.P. 21(a), (b), 28 U.S.C. § 2106.

IV.

JURISDICTION SOUGHT IN THE DISTRICT COURT

Petitioner sought jurisdiction under 28 U.S.C. § 1346(b) . . . " the district courts of the United States shall have original jurisdiction on all tort claims against the United States. . . . "

Also: 28 U.S.C. §§ 2671-80, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules of the various district courts.

V.

HOW THE WRIT WILL BE IN AID OF THE COURT'S APPELLATE JURISDICTION

The Court will not grant certiorari to review any interlocutory order from below.

The probable reason is that interlocutory orders are still subject to revision under Fed.R.Civ.P. 16 at any time before the trial on the interlocutory order.

The Court will grant certiorari to review an interlocutory order as set forth in the Court's Rule 11 before the entry of judgment below provided there is a showing the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court.

However, the Petitioner respectfully points out to the Court that he has brought this ongoing onslaught of piecemeal adjudication under the Court's Rule 11 before without success.

Thus, mandamus as an aid in the Court's appellate jurisdiction will be a complete remedy to below failure or refusal to follow the" . . . usages and principles of law . . . " in Fed.R.Civ.P. 16, Petition's Proposed Special Verdict at Appendix H which will bring this case to a satisfactory conclusion as alleged by Petitioner. 28 U.S.C. § 1651(a).

Petitioner alleges there still has been no trial on any issue in the district court, settlement, award, or compromise, 28 U.S.C. §§ 2672, 2675, 2677, 2679.

Petitioner further alleges that if the Court calls up, for review for compliance with Fed.R.Civ.P. 16, 54(b), in *In re: Delbert H. Reidt*, Respondent, No. C-92-80380 (9th Cir. 1992) all Ninth Circuit Orders and Orders of the several district courts, the Court will readily see that there is a terrific number of interlocutory orders, not tried on the issues in the interlocutory orders.

Hence, the writ will be in aid of further Court's jurisdiction as a complete remedy to interlocutory order which is piecemeal adjudication which this Court has ruled time and time again is not final.

VI.

THE EXCEPTIONAL CIRCUMSTANCES THAT WARRANT THE EXERCISE OF THE COURT'S DISCRETIONARY POWERS

In a review of this Court's appellate jurisdiction granted by the Congress in 28 U.S.C. § 1651(a), that

which is " . . . agreeable to the usages and principles of law," is Fed.R.Civ.P. 16, the formation of issues for trial which may be modified at any time before the trial.

Since there still has been no trial on any issue in any interlocutory order in either the Ninth Circuit or any of its satellite district courts, there still has been no formation of issues for trial either similar or the same as Appendix H.

Thus, Petitioner alleges he has shown an additional reason to call up the dockets from *In re: Delbert H. Reidt, Respondent*, No. 92-80380 (9th Cir. 1992) and also the dockets from *Delbert H. Reidt v. United States*, No. CV-04-2512-C(DC WWS), *Reidt v. United States*, No. CS-03-260-FVS(DC ED WA); *Reidt v. United States*, No. CS-02-394-EFS(DC ED WA); *Reidt v. United States*, No. CS-02-0023-JLQ(DC ED WA); *Reidt v. United States*, No. CV-N-00-297-ECR(DC N NV); *Reidt v. United States*, No. CV-98-1725-C(DC WWS); *Reidt v. United States*, No. CV97-276 Z(DC WWS); *Reidt v. United States*, No. CV-96-344-WLD(DC WWS); *Reidt v. United States*, No. CV-94-20180-RMW(DC ND CA), *Reidt v. San Francisco Regional Office of Dept of Veterans'*, No. CV-89-20527-WAI (deceased) (DC ND CA); *Reidt v. Dept of Transportation, et al.*, No. No. CV-89-20526-WAI(DC ND CA); *Reidt v. Dept of Health and Human Services*, No. CV-89-20510-WAI(DC ND CA); (*Reidt v. Dept of Human Services*, No. CV-89-20509-WAI(DC ND CA), and *Reidt v. Dept of Human Services*, No. CV-89-20508-WAI(DC ND CA) were never served while *Reidt v. Leo Wurschmidt, et al.*, No. CV-88-20720-WAI(DC ND CA) was dismissed without prejudice to re-file once an administrative claim was decided), *Reidt v. United States*, No. CV-84-20566-RPA(DC ND CA).

The foregoing cases are only interlocutory orders made on mere pleading allegations alone without discovery or admissions.

Petitioner alleges an order must issue from this Court to all Respondent Judges, 28 U.S.C. § 2106, answering for their failure or refusal to comply with Fed.R.Civ.P. 16, 54(b); to order discovery; to admit evidence essential to the elements of the case, and to meet Petitioner's burden of proof at trial on all his claims.

The record will allegedly show that the U.S. Attorney holding the various cases, the U.S. Attorney changed from case to case, failed or refused to discuss the case with petitioner, to try and stipulate the issues thus narrowing the issues for trial, Fed.R.Civ.P. 16.

Moreover, this onslaught of interlocutory orders of 20 (twenty) years duration without compliance with either Fed.R.Civ.P. 16 or 54(b) is alleged to be harassment of this Petitioner designed to either prolong this trial or causing Petitioner to give up His quest for full and fair adjudication. Accordingly, Petitioner alleges He is entitled to recover, exclusive of any settlement, award, compromise, trial court judgment, a judgment in this Court for five hundred thousands dollars ($500,000.00) as a sanction, Fed.R.Civ.P. 11 for harassment, causing an additional pain and suffering for anxiety attacks, panic attacks, emotional stress, mental anguish and aggravation of Petitioner's mental state.

All the Court has to do is read Judge Coughenour's dismissal order to get a handle on this case and the previous cases.

See Appendix B, to wit:

> "This matter comes before the Court on Plaintiff's Response to the Court's Feb. 8, 2005 Order to Show Cause why his claims should not be dismissed as res judicata (Dkt. 18). . . ."

The Court need go no further. It is clear Judge Coughenour is not going to allow full and fair adjudication.

Judge Coughenour also cites affirmation of interlocutory orders by the Ninth Circuit in *Reidt v. Dept of Transportation*, 951 F.2d 362 (no date cited) which was an appeal of the interlocutory order in No. CV-89-20526-WAI (DC ND CA); and *Reidt v. Dept of Health and Human Services*, 962 F.2d 14 (no date cited) which was an appeal of the interlocutory order in No. CV-89-20510-WAI(DC ND CA).

Then, Judge Coughenour cites *Reidt v. San Francisco, CA. Regional Office of Dept Affairs*, No. CV-89-20527-WAI(DC ND CA) as not being final. Well, if it is only interlocutory, why didn't Judge Coughenour continue with the instant case?

This Court can certainly make up its own mind whether Appendix G is final or just interlocutory.

Then Judge Coughenour says:

> "Plaintiff has not explained, however, why his current claims are not precluded by the adjudication of the nine other actions listed in his "Statement of Related Cases" (Dkt. 5 Attach 2, there was no Attach 2)."

Petitioner believes He stated quite clearly, and succinctly that the nine other cases were only piecemeal

adjudication, in His response to order to show cause. Petitioner even cited the case law on the subject of piecemeal adjudication in Dkt. 18.

Petitioner alleged to Judge Coughenour in Dkt. 18 and in Petition for Writ of Mandamus in the 9th Circuit that in order to obtain a decree on res judicata Judge Coughenour must show what the judgment was in the previous case, what claims were adjudicated, was there any money awarded to this Petitioner, and did the previous court make an Order that:

> " . . . There being no just reason for delay. . . . and upon an express direction for entry of judgment, Fed.R.Civ.P. 54(b)."

The above cited claims were made to both Judge Coughenour and to the Ninth Circuit and were largely ignored thereby placing the burden on this Court to make that ruling.

And the Ninth Circuit alleged in the April 12, 2005 Order in Appendix A that: "Because the petition lacks merit, they shall not be permitted to proceed." Thereby placing an additional burden on this Court, who has many petitions to consider to decide this case which below has failed or refused to apply the " . . . usages and principles of law." 28 U.S.C. § 1651(a).

And of course before the Court is the Order to Show Cause, Appendix C:

> "As Plaintiff points out in his Statement of Related Cases" (Dkt. No. 5 Attach. 2) this matter has been litigated numerous times, both in this Court and in others."

Petitioner never alleged the cases in Dkt. No. 5 were ever fully and fairly adjudicated to Judge Coughenour. No Petitioner alleged the previous courts engaged in piecemeal adjudication of fewer than all the parties claims, rights, and liabilities and is not final, Fed.R.Civ.P. 54(b). And this Court holds that piecemeal adjudication is not final.

In fact, all the previous Courts, held at piecemeal, interlocutory order(s) that Petitioner's claims were barred by res judicata. Never did any judge address my claims made in the several complaints.

The one exception was Judge Aguilar in *Reidt v. United States*, No. CV-84-20566-RPA(DC ND CA) in March 5, 1985 dismissal Order he cited the genuine issue of fact, but dismissed the complaint because Petitioner failed to cite claims for which relief can be granted for: pain and suffering, anxiety attacks, emotional stress, mental anguish, (aggravation of mental state) and post service loss of wages due to inability to engage in gainful, substantial employment opportunities, Fed.R.Civ.P. 8(a).

The above claims for which relief can be granted were inadvertently omitted from the pleadings made to Judge Ingram in any case in which he presided. *See Appendix G* and the related cases cited therein.

In all those cases cited in Appendix G Petitioner can be excused for excusable neglect or inadvertence under Fed.R.Civ.P. 60(b)(6) for not citing claims on which relief can be granted, Fed.R.Civ.P. 8(a).

Unfortunately Petitioner is unable to bring the foregoing to the attention of the Ninth Circuit or the several district courts as they all have orders to accept no more

motions or any other submission from this Petitioner, thereby showing an additional reason or exceptional circumstance that warrants an exercise of this Court's discretionary power to supervise below.

However, on the bright side, and commencing with *Reidt v. United States*, No. CV-94-20180-RMW(DC ND CA) and continuing up to and including the instant case: *Reidt v. United States*, No. CV-04-2512-C(DC WWS) Petitioner did claim the above claims on which money relief can be granted for pain and suffering, anxiety attacks, panic attacks, emotional stress, mental anguish (aggravation of Petitioner's mental state) and for post service loss of wages due to inability to engage in gainful, substantial employment opportunities, Fed.R.Civ.P. 8(a).

Thus an additional exceptional circumstance arises for which this Court may exercise its discretionary powers to supervise below, 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106.

Thus additional questions arise as to the rulings below:

Question X is: Did petitioner cite claims for which money relief can be granted from *Reidt v. United States*, No. CV-94-20180-RMW(DC ND CA) through *Reidt v. United States*, No. CV-04-2512-C(DC WWS)? Fed.R.Civ.P. 8(a), 28 U.S.C. § 1651(a), S.Ct. Rule 20, 28 U.S.C. § 2106.

Question XI is: Can Petitioner Pro Se be excused for inadvertence or excusable neglect for not citing claims on which money relief can be granted in cases *Reidt v. United States*, No. CV-84-20566-RPA(DC ND CA) through *Reidt v. San Francisco, CA. Regional Office of Dept of Veterans' Affairs*, No. CV-89-20527-WAI(DC ND CA)? Fed.R.Civ.P. 8(a), Fed.R.Civ.P. 60(b)(6), 28 U.S.C. § 1651(a). S.Ct. Rule 20, 28 U.S.C. § 2106.

Where the Department of Health and Human Services interfered without proper authority to do so, 28 U.S.C. §§ 2671, 2672, 28 U.S.C. § 2675, 28 U.S.C. § 2677, 28 U.S.C. § 2679 there arises another issue for the trial Court, if one is ever held.

The Court may consider these pleadings irrelevant. I can't say. But I will make the pleading for consideration.

When Petitioner first discovered that he had been diagnosed with a terrific number of phobias from 1952, He thought he ought to make an administrative claim to the Proper agency, 28 U.S.C. § 2671.

There have been several changes over jurisdiction of the Coast Guard, 28 U.S.C. § 2671. And this makes this case confusing.

In 1952 the Public Health Service did medicine for the Coast Guard. In fact, the Surgeon who found Petitioner physically qualified for retention in the Coast Guard on Dec. 17, 1951 was PHS M.D. Virglis. He reported to the base commander who in turn reported to Secretary of the Treasury who held jurisdiction over the Coast Guard in 1952, 28 U.S.C. § 2671.

In 1966 jurisdiction passed to the Department of Transportation, 28 U.S.C. § 2671.

In any event, I filed a claim for $30,000,000.00 (thirty million dollars) to the Public Health Service who was the responsible agency, 28 U.S.C. § 2679(5).

The Department of Health and Human Services is not a proper agency to decide a military tort claim, 28 U.S.C. § 1346(b), 28 U.S.C. §§ 2671-80.

The Public Health Service notified me that they had completed their investigation and forwarded their findings to Health and Human Services for a final decision. By the way I never, ever, received a copy of the determination from Public Health even though I tried to obtain a copy on discovery.

I allege Health and Human Services was negligent for making a final decision on the military tort claim over which they had no proper jurisdiction, 28 U.S.C. § 2671.

The Public Health Service should have forwarded the findings to the Department of Transportation for a final decision as is Proper, 28 U.S.C. §§ 2671-80, 28 U.S.C. § 1346(b). These facts are in the several complaints. And they should have sent me a copy of their findings which they failed or refused to do.

Moreover Petitioner still retains the hearing of April 16, 1990 which was supposed to be No. CV-89-20527-WAI (Appendix G).

At page 4 Judge Ingram says, "Well, I know, but I'm not a physician. How do you expect –

Mr. Reidt: Well, I have –

The Court: – a lawyer to tell you whether or not a doctor's diagnosis is either right or wrong?

A lawyer is not a doctor and cannot make medical diagnoses Petitioner now alleges. Moreover, Judge Ingram is a judge or was a judge as the case may be. As a Judge he was supposed to make a legal decision whether or not the United States, Its agencies or departments or contractors were negligent, or wrongfully omitted to inform the Petitioner that He had a "terrific number of phobias." 28 U.S.C. § 1346(b), 28 U.S.C. § 2674.

Dr. Lash, M.D., staff physician, at United States Public Health Service Hospital at Seattle, WA made the diagnosis of a "terrific number of phobias" which is a genuine medical diagnosis. Now, I need a Judge who recognizes that diagnosis whether or not a lawyer agrees.

At page 20, attorney Murphy argues for summary dismissal before discovery and admissions of evidence is granted.

Murphy alleges: "There is no such thing as a Lash opinion." That's right. But there was a Lash diagnosis of phobias.

It is Petitioner's allegation that a previous interlocutory order cannot be cited as res judicata. Yet Attorney Murphy argues that the Judgment in *Reidt v. United States*, No. CV-84-20566-RPA(DC ND CA) is final on the interlocutory Order of Judge Aguilar at pages 20, 21.

At page 13 Murphy says: "You have a motion in 510 (C-89-20510) for an order to recite the factual issues. Again, referring to Rule 52, for which there has been no trial." Hello, Murphy admits there was not a trial.

Murphy's arguments are laced with lack of logic, at 16: "It was dismissed because there was no administrative claim filed, as required under the Federal Tort Claims Act." Sorry Mr. Murphy I did make an administrative claim to the Public Health Service as the Proper Agency who committed the tort.

Murphy: Now, the next thing that happened is that case went to the Ninth Circuit, C-84-20566-RPA(DC ND CA). The Ninth Circuit affirmed Judge Aguilar, so that case is gone. Oh, No. Certiorari is sought two years later in the Supreme Court of the United States. The Supreme Court denies certiorari in that case. A case couldn't be more dead. Wrong again. The Supreme Court denied certiorari in that case because it was only interlocutory, both in the 9th Circuit, and before Judge Aguilar, Fed.R.Civ.P. 54(b).

I don't know how to serve Murphy. He may well have passed away. He was near 57 years of age in 1990. If the proper agency informs me of Murphy's whereabouts I will gladly serve him a copy of the petition. He, however, did a magnificent job on mere pleading allegations alone without discovery or admissions allowed.

At page 17 Murphy argues: "The government feels it has a right to bring a motion before this Court under Rule 12(b)(1) saying you do not have subject matter jurisdiction. For one thing, you've got the wrong defendant in a tort claims case when you have HHS" (Health and Human Services).

I've been saying that for 15 years now. The HHS interfered with a Proper claim to Public Health Service where Public Health Service should have forwarded their

findings to Dept of Transportation, 28 U.S.C. §§ 2671, et al.

Moreover, the only defendant in a tort claims case is the United States. The district court is required by 28 U.S.C. § 2679(d)(1), upon certification by the Attorney General that the defendant employee was acting within the scope of his office.... The United States shall be substituted as the party defendant...."

None of the Respondent district judges would change the defendant party under 28 U.S.C. § 2679(d)(1).

None of the respondent judges will accept any further pleadings from Petitioner, including the 9th Circuit. *See* Appendix A.

If fact, all Respondent Judges have warned Petitioner that the case is closed thereby showing further exceptional circumstances which warrant an exercise of this Court's discretionary power to supervise below into trying the Plaintiff's Proposed Special Verdict at Appendix H which will bring this case to a final conclusion.

On a petition for writ of mandamus the moving party must demonstrate to the Court a showing or allegation of prejudicial conduct by a judge or judges. Appendix D and Appendix E show Judge Coughenour was extremely prejudiced against Petitioner and completely biased in favor of the United States; and that has been the case in other previous cases. He would not be fair or impartial.

Appendix A shows complete prejudice by Ninth Circuit Judges Kozinski, Hawkins and Clifton. No issue in the mandamus is discussed by any Circuit Judge.

There were several questions presented in the mandamus which upon review by this Court were presented to the Ninth Circuit which this Court may interpret as being similar or the same as the questions presented to this Court.

For example Question 7 in the mandamus presented to the Ninth Circuit was:

> "Is piecemeal adjudication of fewer than all the parties claims rights and liabilities final under Fed.R.Civ.P. 54(b)? 28 U.S.C. § 1651(a), Fed.R.App.P. 20, Ninth Circuit Rule 21-1-21-4."

Question 4: "Was there ever a trial on the issue in Question 3 above? 28 U.S.C. § 1651(a), Fed.R.App.P. 20, Ninth Circuit Rule 21-1-21-4."

Question 6: "Is res judicata an affirmative defense to be pled only after Respondent has completed his case? Fed.R.Civ.P. 8(a), Fed.R.Civ.P. 8(c), 28 U.S.C. § 1651(a), Fed.R.App.P. 20, Ninth Circuit Rule 21-1-21-4."

Petitioner alleges the above questions unanswered by Judge Coughenour in Dkt. 18 and the Ninth Circuit in the Petition for Writ of Mandamus lodged in the Ninth Circuit clearly demonstrate judicial prejudice against this Petitioner time and time again in case after case below. They could not, would not, be fair and impartial.

In Appendix E Judge Coughenour addressed only the Certificate of Good Faith (Dkt. 6, Attach. No. 3) He does not address Dkt. No. 7 which is the Declaration of the Facts In Support of Certificate of Good Faith (Dkt No. 6).

Dkt. No. 7 is replete with allegations of prejudicial conduct by Judge Coughenour when he presided over

Reidt v. United States. No. CV-98-1725-C(DC WWS). He was not fair and impartial.

Moreover in Appendix C Minute Order to Show Cause, the only issue allowed by Judge Coughenour was why the case should not be dismissed as res judicata. And that is answered by Questions Presented in the Mandamus sought in the Ninth Circuit and in Dkt. 18 to Judge Coughenour.

The foregoing demonstrate conclusively exceptional circumstances why an exercise of the Court's discretionary power to supervise below to recognize that res judicata is a trial court issue not to be adjudicated at pre-trial adjudication, to try all the facts, res judicata notwithstanding.

VII.

WHY ADEQUATE RELIEF CANNOT BE HAD IN ANY OTHER COURT OR IN ANY OTHER FORM

Adequate relief was not granted in Petitioner's administrative claims to the Public Health Service from 1981-82. They failed or refused to furnish Petitioner with a copy of their findings, and this Court should order a copy be furnished this Petitioner.

And, either Public Health, or Health and Human Services was negligent – where Public Health should have forwarded their findings to Petitioner and the Dept of Transportation, 28 U.S.C. § 2671 for a final decision, or Health and Human Services was negligent for not forwarding the findings of Public Health to Petitioner and Dept of Transportation, 28 U.S.C. § 2671 where the Department of Transportation is the Proper Department

to make the final decision, and not Health and Human Services, 28 U.S.C. § 2671.

The Department of Transportation Secretary failed or refused to make a final decision in this case, 28 U.S.C. § 2671, and the Military Correction Board at Transportation also failed or refused to take into account the diagnosis of Dr. Lash as proof of service-connection for "phobias".

Veterans' Affairs failed or refused to take into account the diagnosis of Dr. Lash as proof of entitlement for disability pay.

All of the agencies, including Judge Ingram in Appendix G, failed or refused to take into account the provisions of 28 U.S.C. § 2401 relating to disabilities.

Petitioner still retains a copy of the hearing transcript from April 16, 1990 where Judge Ingram at page 5: The Court: If there were a trial, then, of course expert testimony could be offered. But all of those diagnoses that you're indicating are – goes back to '52. And at page 6: The Court: Well, how does the existence of – at the time that Dr. Lash said what he said, which was pretty early in your career, I guess, how does the existence of phobias tend to support the notion that it was service-incurred phobias?

Well, Petitioner does not give a bean whether, at this stage of litigation whether the "phobias" are service-incurred or not. The point is that I had "phobias" at the time Dr. Lash examined me in May, 1952. Petitioner did not have "phobias" when examined by Dr. Virglis on Dec. 17, 1951.

And the gist of the litigation is the government employees or contractors did not inform me of the "phobias". Therefore, their conduct was negligent, wrongful act, or

omission to act when they should have, could have so made such disclosure to Petitioner. Service-incurred or not.

With respect to 28 U.S.C. § 2401:

The facts show Petitioner has been under a legal disability of "phobias" since 1952 which Petitioner was not aware of due to alleged negligence. Ergo, the burden of proof is met by the diagnosis of Dr. Lash. He is the only credible expert witness. Under Fed.R.Evid. 803 Dr. Lash's diagnosis is considered as the only expert witness of Petitioner's "phobias".

Petitioner alleges the burden is on the United States to prove that the "phobias" no longer exist, when they no longer exist, who was the medical examiner and what were his findings, did he comply with 28 U.S.C. § 2401 provisions, and so forth.

Petitioner alleges that he believes the government cannot sustain Its burden at trial, hence the summary judgment on fewer than all the parties claims, rights, and liabilities, Fed.R.Civ.P. 54(b).

The United States had a perfect out to the negligence allegations from Petitioner. In May, 1985 the Corrections Board issued a final decision on my claim for disability status and pay. Since I had no Physical Evaluation Board in 1952 because I was misled by the Board of Medical Survey to not appear at the Physical Evaluation Board in 1952 a claim for disability status and pay accrues in the Claims Court (United States Court of Federal Claims) on the Final denial by the Correction Board who acts as the Physical Evaluation Board from 1952.

On March 6, 1986 in *Reidt v. United States*, Cl. Ct. No. 490-85-C, Judge Harkins issued a summary judgment on fewer than all the parties' claims, rights and liabilities, RUSCC 54(b), Fed.R.Civ.P. 54(b). Judge Harkins failed or refused to take into account the accrual rules stated herein by Petitioner which establish when a claim is ripe for judicial review in the United States Claims Court from 1986.

The United States Court of Appeals for the Federal Circuit failed or refused to reverse and remand Cl. Ct. No. 490-85-C for full and fair adjudication on all the claims, rights and liabilities of all the parties, 28 U.S.C. § 1295.

In retrospect Petitioner now realizes the Federal Circuit never had appellate review under 28 U.S.C. § 1295 for No. 490-85-C (Cl. Ct.) as appellate review is limited to cases certified under Fed.R.Civ.P. 54(b) (RUSCC 54(b)).

In other words Judge Harkins summary judgment of March 6, 1986 in Cl. Ct. No. 490-85-C did not fully and fairly adjudicate all the parties claims, rights and liabilities, RUSCC 54(b) (Fed.R.Civ.P. 54(b)).

Ergo, Petitioner was unable to obtain adequate relief at the Administrative level from any Federal Department or Federal Agency or Federal Contractor.

The district court (several) failed or refused to fully and fairly adjudicate all the parties claims, rights, and liabilities under Fed.R.Civ.P. 54(b). Limiting their jurisdiction to simple and incomplete piecemeal adjudication of fewer than all the parties claims, rights, and liabilities at pre-trial interlocutory orders which none of the interlocutory orders have ever borne the scrutiny of a trial court.

The Ninth Circuit abused its judicial discretion by reviewing interlocutory orders under 28 U.S.C. § 1291, and never once did the Ninth Circuit ever reverse and remand or vacate any interlocutory order for full and fair adjudication under Fed.R.Civ.P. 54(b).

The Ninth Circuit failed or refused to issue writ of mandamus to comply with Fed.R.Civ.P. 54(b), piecemeal adjudication notwithstanding.

The Claims Court failed or refused to Order disability status and pay in *Reidt v. United States*, 490-85-C (Harkins) which would have ended this matter in 1986.

The Federal Circuit affirmed the summary judgment of March 6, 1986 in Cl. Ct. No. 490-85-C (Harkins) piecemeal adjudication notwithstanding. The Federal Circuit failed or refused to issue several writs of mandamus to the Claims Court to try all the facts in the case in Cl. Ct. No. 490-85-C (Harkins) *Reidt v. United States*, piecemeal adjudication of fewer than all the parties claims, rights, and liabilities notwithstanding.

The Supreme Court denied several Petitions for Writ of Certiorari. The only plausible reason certiorari was denied was because the Court will not issue writ of certiorari to review interlocutory orders from the District Courts, the Ninth Circuit, the Claims Court or the Federal Circuit. The Supreme Court prefers to wait until a particular case is certified under Fed.R.Civ.P. 54(b), and then only to review the law. The Court rarely reviews findings of fact.

Petitioner did file a writ of mandamus to the Supreme Court in 00-1759. But it was so poorly constructed as to the purpose and intent of the writ that the writ was

denied, probably on the grounds of insufficiency in the pleadings.

Due to harassment of interlocutory orders from below not consistent with Rule 54(b), by interposing pleadings designed to prolong these proceedings and to increase the expense of litigation, the petitioner has been subjected to 20 (twenty) years of pain and suffering already stated herein. Petitioner believes He is entitled to recover expenses for this extended litigation through no fault of Petitioner. Petitioner is entitled to recover extended litigation costs in the amount of $20,000.00 (twenty thousand dollars), and an additional amount of $500,000.00 (five hundred thousand dollars) for the alleged interposing of interlocutory order after interlocutory order, then closing the cases; for the alleged additional pain and suffering exclusive of any settlement, award, compromise, arbitration made under 28 U.S.C. § 2672, § 2675, § 2677. Fed.R.Civ.P. 11.

And, Petitioner further alleges that there has been a complete failure or refusal in the absence of any fairness or impartiality from the district courts, Ninth Circuit, Claims Courts, Federal Circuit or any Administrator of any administrative claim.

And there has been confusion in the docket sheet from Appendix B,C,D,E in that since the clerk of the district court failed or refused to certify the docket sheet or file-stamp Appendix B. For example, Judge Coughenour reports the Motion for Recusal is Dkt. 6, while he also reports that the Statement of Related Cases is also Dkt. 6 which is probably Dkt. 5 showing further reasons the Court must call up the dockets in order to determine whether the docket numbers are in order.

The Court may also determine why Judge Coughenour failed or refused to file-stamp Appendix B, why was Appendix B mailed to 19115 Holly Drive, Apt. G-104 instead of 10115 Holly Drive, Apt. G-104, Everett, WA 98204. If the Postal Service Officer had not spotted the wrong address, Appendix B would have been returned to the district Court. And why the Appendix A was sent to an incomplete address also; and, again, Postal Service Officer caught the incomplete address and was able to deliver Appendix A.

For the foregoing reasons the Court shall issue writ of mandamus or per curiam to below to follow the " . . . usages and principles of law. . . . " enumerated herein.[1]

Respectfully demanded,

DELBERT H. REIDT Dated: May 20, 2005

[1] The Petitioner believes the purpose of the requested Verdict Form is to adjudicate the issues in the Verdict Form, Fed.R.Civ.P. 16, Fed.R.Civ.P. 49(a), (b), Fed.R.Civ.P. 54(b). Judge Ingram wanted to do a piecemeal adjudication at Appendix G on the entire case. When Petitioner asked Judge Ingram's clerk how much money in a phone call from Judge Ingram in Feb., 1990, the answer was only that Judge Ingram would be generous. Since the purpose of adjudication is to resolve the issue of damages, Plaintiff's Proposed Special Verdict at Appndix H will settle the issues of money relief sought once and for all.

APPENDIX A

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: DELBET H. REIDT, Respondent,	No. 92-80380 D.C. No. CV-04-2512-C D.C. No. CV-98-1725-C Western District of Washington ORDER (Filed Apr. 12, 2005)

Before: KOZINSKI, HAWKINS and CLIFTON, Circuit Judges

This court has reviewed the petitions for writ of mandamus and accompanying documents lodged March 11, 2005 and March 28, 2005 pursuant to the pre-filing review order entered in this docket. Because the petitions lack merit, they shall not be permitted to proceed.

No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained in this closed docket.

APPENDIX B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DELBERT H. REIDT, Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	CASE NO. C04-2512C ORDER

This matter comes before the Court on Plaintiff's Response to the Court's February 8, 2005 Order to Show Cause why his claims should not be dismissed as *res judicata* (Dkt. No. 18). Plaintiff contends that his current claims are not subject to *res judicata* because the U.S. District Court for the Northern District of California did not enter a final judgment in the case *Reidt v. San Francisco, Ca. Office of Dept. of Veterans Affairs*, No. CV-89-20527-WAI. Plaintiff has not explained, however, why his current claims are not precluded by the adjudication of the nine other actions listed in his "Statement if Related Cases" (Dkt. No. 6, Attach. 2). In at least two of these cases. *Reidt v. Dept. of Transportation*, 951 F.2d 362, and *Reidt v. Dept of Health and Human Services*, 962 F.2d 14, courts reached the merits of Plaintiff's claims. Accordingly, the Court finds Plaintiff has not shown why dismissal is not warranted and hereby DISMISSES Plaintiff's claims with prejudice.

SO ORDERED this 4th day of March, 2005.

/s/ John C. Coughenour
UNITED STATES DISTRICT
JUDGE

APPENDIX C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DELBERT H. REIDT, Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	CASE NO. C04-2512C MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

Plaintiff has brought the current action arising from his 1952 discharge from the United States Coast Guard. As Plaintiff points out in his "Statement of Related Cases" (Dkt. No. 6, Attach. 2), this matter has been litigated numerous times, both in this Court and in others. Accordingly, Plaintiff is directed to SHOW CAUSE by Wednesday, February 23, 2005 at 4:30 p.m. why his claims should not be dismissed as *res judicata*.

DATED this 8th day of February, 2005.

BRUCE RIFKEN,
Clerk of Court

By /s/ L. Simle
Deputy Clerk

APPENDIX D

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DELBERT H. REIDT, Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	)	No. C04-2512C ORDER

This matter comes before the Court under Local General Rule 8(e). Plaintiff has filed a "Pro Se Certificate of Good Faith for Recusal of Chief Judge John C. Coughenour from Further Participation in this Case. 28 U.S.C. § 144" in the above-captioned matter. *See* Dkt. # 6. The Honorable John C. Coughenour, United States District Judge, declined to recuse himself voluntarily and the matter was referred to the Chief Judge for review. Dkt. # 8.[1] Plaintiff's motion is therefore ripe for review by this Court.

Section 455 of title 28 of the United States Code governs the disqualification of a district judge. It states in relevant part: "Any justice, judge, or magistrate, judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

[1] The undersigned became Chief Judge of the Western District of Washington on September 1, 2004.

Additionally, 28 U.S.C. § 144, pertaining to judicial bias or prejudice, provides:

> Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding. The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists.

A judge must recuse himself if a reasonable person would believe that he is unable to be impartial. *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir. 1993), This is an objective inquiry regarding whether there is an appearance of bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980); *See also In Liteky v. United States*, 510 U.S. 540 (1994) (explaining the narrow bases for recusal). A litigant cannot, however, use the recusal process to remove a judge based on adverse rulings in the pending case: the alleged bias must result from an extrajudicial source. *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986).[2]

Plaintiff argues that Judge Coughenour's decisions in a prior matter, C98-1725C, show that he is has a bias against plaintiff.[3] Plaintiff does not identify any extrajudicial source

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[2] Objections to a judge's decisions are properly raised through an appeal, not a motion to recuse.

[3] On January 20, 2005, the Honorable Monica J. Benton, United States Magistrate Judge, granted plaintiff leave to proceed *in forma*

(Continued on following page)

of the alleged prejudice: the only evidence of bias presented is the judge's decision in the earlier matter. In such circumstances, the risk that the litigant is using the recusal motions for strategic purposes is considerable. *See Ex Parte American Steel Barrel Co. and Seaman*, 230 U.S. 35, 44 (1913). Because a judge's conduct in the context of judicial proceedings does not constitute the requisite bias under § 144 or § 455 if it is prompted solely by information that the judge receive in the context of the performance of his duties as the presiding judicial officer, plaintiff has not met his burden of showing an appearance of bias.

Having reviewed plaintiff's motion and the remainder of the record, the Court finds that Judge Coughenour's impartiality cannot reasonably be questioned. There being no evidence of bias or prejudice, plaintiff's request to remove Judge Coughenour from this matter is DENIED.

DATED this 3rd day of February, 2005.

/s/ Robert S. Lasnik
Robert S. Lasnik
Chief Judge, United States
District Court

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pauperis. Dkt. # 5. Plaintiff's allegation of bias based on Judge Coughenour's alleged unwillingness to allow plaintiff to proceed without paying the filing fee is therefore moot and has not been considered.

APPENDIX E

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DELBERT H. REIDT, Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	CASE NO. C04-2512C ORDER

This matter comes before the Court on Plaintiff's Certificate of Good Faith for Recusal of Judge Coughenour (Dkt. No. 6, Attach. No. 3). The Court interprets this document as a motion to recuse. Plaintiff's motion seeks recusal because Judge Coughenour (1) will not allow Plaintiff to proceed in forma pauperis, and (2) will "probably . . . engage in another piecemeal adjudication of fewer than all the claims of the parties, rights of the parties, and liabilities of all the parties . . . and dismiss this action and close the case as he did in No. CV-98-1725-JCC."

Under 28 U.S.C. §§ 144, 455, the standard for recusal is "whether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *Mayes v. Leipziger*, 729 F.2d 605, 607 (9th Cir. 1984). A judge's prior adverse ruling is not sufficient cause for recusal; rather, the alleged prejudice must result from an extrajudicial source. *Id.*

On January 20, 2005, the Honorable Monica J. Benton, United States Magistrate Judge, granted Plaintiff leave to proceed in forma pauperis. Thus, Plaintiff's objections based on allegations that this Court will not grant such a petition are irrelevant. Further, Plaintiff

points only to a previous unfavorable ruling to support his contention that Judge Coughenour is personally biased against him in this action. Such a showing is not sufficient to warrant recusal.

Accordingly, pursuant to GR 8(c), the Court hereby DECLINES to voluntarily recuse and REFERS Plaintiff's motion to the Honorable Robert S. Lasnik, Chief United States District Judge.

SO ORDERED this 26th day of January, 2005.

/s/ John C. Coughenour
UNITED STATES DISTRICT JUDGE

APPENDIX F

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DELBERT H. REIDT, Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	CASE NO. C04-2512C MINUTE ORDER

The following Minute Order is made at the direction of the Court, the Hon. Monica J. Benton, United States Magistrate Judge:

Plaintiff was granted leave to proceed to proceed *in forma pauperis* on January 20, 2005. (Dkt. #5). However, Plaintiff has not provided a completed **Written Consent For Payment of Costs From Any Recovery**.

Accordingly, Plaintiff shall submit a completed consent form within **twenty (20)** days from the date of this Minute Order. The Clerk shall send a blank copy of the Written Consent for Payment of Costs form to Plaintiff, along with a copy of this Minute Order.

DATED this 25th day of January, 2005.

BRUCE RIFKIN, Clerk

By: LW Simple
Deputy Clerk

APPENDIX G

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DELBERT H. REIDT, Plaintiff, v. SAN FRANCISCO OFFICE OF THE DEPARTMENT OF VETERANS AFFAIRS, Defendants.	CASE NOS.: C-89-20527-WAI RELATED CASE NO.: C-88-20720-WAI; C-84-20566-RPA; C-89-20508-SAW; C-89-20509-FHS; C-89-20510-WAI; C-89-20526-RFP; C-89-20554-WAI. (Filed Dec. 14, 1989)

In this dispute, plaintiff seeks recovery for defendant's failure to correct his medical records pursuant to the Privacy Act, U.S.C. 552a(d)(3). Defendant moves to dismiss on the grounds that plaintiff has failed to allege any factual or historical error as required by the Act. However, plaintiff's claim that the diagnosis by the Board of Medical Survey was incomplete because it failed to take into account a diagnosis by Dr. Lash is sufficient to state a claim. Therefore, defendant's motion is DENIED.

IT IS HEREBY ORDERED that both parties file cross-motions for summary judgment within 30 days from the filing date of this order.

DATED: 12 12 89

/s/ William A. Ingram
WILLIAM A. INGRAM
United States District Judge

APPENDIX H

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DELBERT H. REIDT, Plaintiff, v. UNITED STATES OF AMERICA, Defendants.	CASE NO. 04-2512-C PLAINTIFF'S PROPOSED SPECIAL VERDICT

To the Trier of fact: I, ___, the undersigned trier of fact in the above-entitled action herewith make my findings of fact. TO WIT:

You will answer all interrogatories in order to determine whether the Feres Doctrine bars recovery in this case.

1. Did you find plaintiff to be physically qualified for retention in military service on Dec. 17, 1951? Yes___ No___

2. Did you find that plaintiff was suffering from a terrific number of phobias while undergoing treatment and evaluation at United States Public Health Service Hospital in May, 1952 while he was a member of the uniformed military service of the United States? Yes___ No___

3. Did you find plaintiff was injured causing a severe head injury while active military service? Yes___ No___

4. Did you find the United States negligently or wrongfully failed or refused to disclose the "phobias" to plaintiff? Yes___ No___

5. Did you find the United States Coast Guard negligently or wrongfully terminated plaintiff from active

military service on July 7, 1952 without disability status and pay? Yes___ No___

If you answered 1 or more interrogatory above with a yes, then, you must find the Departments of Government or the United States liable for money damages arising from the following injuries to plaintiff:

What is your money award for the following claims on which money relief can be granted?

How much for 53 years of pain and suffering? _____

How much for 53 years of anxiety and panic attacks? _____

How much for emotional stress of 53 years? _____

How much for mental anguish for 53 years? _____

How much for taxable income lost due to plaintiff's post-service inability to engage in gainful, substantial employment opportunities did you award for the years 1952 to plaintiff's retirement age of 65 years in 1997, Nov. 23, 1997 did you award? _____

What is the amount of your total money award? _____

_____

Is this amount accurate and correct? Yes___ No___

Please date and sign as this brings this case to a final conclusion.

_____
Trier of fact

PROPOSED BY Delbert H. Reidt
01/28/05
DATED

DELBERT H. REIDT PRO SE
10115 Holly Drive
Apt. G-104
Everett, WA. 98204
TEL. (425) 330-8255

1 copy to be file-stamped by the Clerk and returned to plaintiff. Sent to Clerk's Office by first class mail in the envelope provided by the Clerk on 29th of January, 2005.

APPENDIX I

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

DELBERT H. REIDT, Plaintiff, v. UNITED STATES OF AMERICA, Defendant(s).	C 04-2512-C WRITTEN CONSENT FOR PAYMENT OF COSTS FROM ANY RECOVERY UNDER LOCAL RULE CR 3(b)

I, DELBERT H. REIDT, hereby consent that any recovery in damages that I may receive in the above-captioned cause may be reduced, if so directed by the court, in such an amount as is necessary for payment of the unpaid fees and costs which are taxed against me in the course of this litigation.

DATED this 28th, day of JANUARY, ~~199~~ 2005

/s/ Delbert H. Reidt
Signature of Plaintiff
DELBERT H. REIDT PLAINTIFF
PRO SE
10115 HOLLY DRIVE APT. G-104
EVERETT, WA. 98204
TEL. (425) 330-8255

RETURNED TO CLERK'S OFFICE ON JANUARY 29, 2005 by first class mail in the envelope provided by the Clerk, U.S.D.C. WWS.